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PATENT

Customer No. 22,852

Attorney Docket No. 5725.0960-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jean MONDET et al.

Application No.: 09/964,751

Filed: September 28, 2001

For: COSMETIC COMPOSITIONS  
COMPRISING AT LEAST ONE  
CONTINUOUS LIQUID FATTY  
PHASE STRUCTURED WITH  
POLYURETHANES,  
POLYURETHANEUREAS, AND  
POLYUREAS

Group Art Unit: 1617

Examiner: E. Webman



22852

PATENT TRADEMARK OFFICE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

Further to the Office Action dated April 28, 2003, the period for reply having been extended to June 28, 2003, by a petition for a one month extension of time and payment of the \$110.00 fee filed herewith, please examine this application in view of the following remarks:

**I. Status of the Claims**

Claims 1-77 are pending in this application. Claims 73-76 have been withdrawn from further consideration by the Examiner. No claims have been added or amended by this Response.

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

**II. Election of Species Requirement**

In the Office Action, pages 2-3, the Examiner has required an election of a single disclosed species of:

- A. one ultimate polymer for examination of claims 1-48;
- B. one oil for examination of claims 51-55;
- C. one additive for examination of claims 58 and 68; and
- D. one form for the claimed invention, i.e., a liquid solution, a gel, or a solid.

In response, Applicants hereby elect with traverse:

- A. a polymer of formula II, as prepared in Example 2 of the instant specification;
- B. a parlean as an oil;
- C. a pigment as an additive; and
- D. a solid form for the claimed composition.

Claims 1-72 and 77 are readable thereon.

Applicants traverse the election of species requirement on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the claimed species. See M.P.E.P. § 803. In fact, the Examiner has failed to show that any burden exists. Accordingly, Applicants respectfully request that the full scope of the claimed invention be examined in this application without an election requirement. If the Examiner chooses to maintain the election requirement, however, and should the elected species be found allowable, Applicants expect the Examiner to continue to examine the full scope of the claimed subject matter to the extent necessary to determine the full scope of the patentability thereof, i.e., extending the search to the

non-elected species, as is the duty of the Examiner according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned at (202) 408-4328.

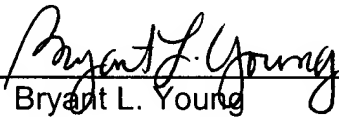
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 23, 2003

By: \_\_\_\_\_

  
Bryant L. Young  
Reg. No. 49,073

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com